

REMARKS

Applicants file this Amendment C concurrently with a Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. 1.137 and a Request for Continued Examination (“RCE”), for which Amendment C is the required submission.

Reconsideration of this application and the rejection of claims 12-13, 15 and 20 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated April 21, 2003 (Paper No. 9) and in the Advisory Action mailed August 6, 2003 (Paper No. 11) and believe the application is now in condition for allowance or in better form for appeal. The claims have been amended to more clearly define the present invention. The Applicants acknowledge the allowance of claims 21-22, as well as the allowability of claims of claims 14, 16-19. Previously added claim 21 incorporates features of claims 12, 13 and 14, and claim 22 incorporates features of claims 12, 15 and 16. New claim 23 has been added.

Claims 12-13, 15 and 20 stand rejected under 35 USC §102(b) as being anticipated by Phillips et al. (‘072). Phillips et al. disclose a regulator 82 which includes a circular mating portion 144 that sealably mates to a generally cylindrical fuel container 77. The regulator 82 may be retained on a handle 140 by a regulator retaining system 146, which includes a cross pin 148, a latch spring 65, and a latch slide 76. When the latch slide 76 is pressed against the latch spring 65, the cross pin 148 is released and the regulator 82 is able to be removed from the handle 140. With the regulator 82 removed from the handle 140, the fuel cartridge 77 can be removed or inserted into a receptacle 142.

As now recited in amended claim 12, the present invention, among other things, discloses a combustion tool comprising a fuel cell that is non-removably fixed to an adapter such that the adapter is configured to undergo shear failure if rotational removal from the fuel cell is attempted, and configured for being accommodated in the housing in fluid communication with the fuel metering valve.

In contrast, Phillips et al. fails to disclose or suggest a fuel cell that is non-removably fixed to an adapter. The Examiner even acknowledges that the regulator 82 in Phillips et al. is able to be released from the fuel cartridge 77 (Paper 9, page 2, item 2). In fact, the regulator 82 is never non-removably fixed to the fuel cartridge 77. The regulator 82 needs to be removed from the tool to allow the insertion of the fuel cartridge 77 into the receptacle 142. Once the fuel cartridge 77 is inserted into the receptacle 142, the regulator 82 is placed on the tool and retained on the handle 144. Because the regulator 82 is removable from the fuel cartridge 77, it is reusable with many different fuel cartridges. Accordingly, the rejection based on Phillips et al. is respectfully traversed.

In Paper No. 11, the Examiner states that “the addition of the limitation ‘non-removably’ to the claim does not place the case in condition for allowance in that it is obvious to non-removably place an adapter onto a canister. Furthermore, forming an article into one piece which has formerly been formed in two pieces and put together involves only routine skill in the art” (citation omitted). (See Paper No. 11, continuation of item 10.) These remarks appear to support a rejection under 35 U.S.C. § 103, based on the combination of Phillips and knowledge well-known in the art, that has not been made, rather than the

actual rejection of claim 12 under § 102. Applicants will address a rejection under § 103 if such a rejection is made in the case.

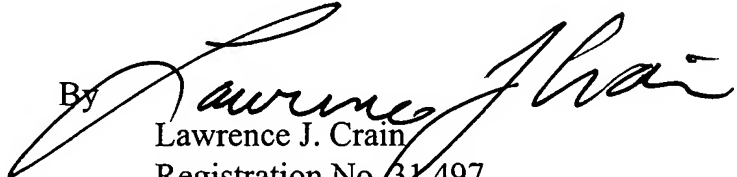
Applicants have added new claim 23 to which the remarks of Paper No. 11 do not apply. The nozzle and base of the adapter of claim 23 are “fastened together by a plurality of supporting ribs, said supporting ribs being configured for preventing removal of said adapter from said fuel cell by undergoing shear failure if such removal is attempted.” Thus the adapter and fuel cell of claim 23 is not addressed by the remarks of Paper No. 11: (1) the fuel cell is non-removably fixed to the adapter in the particular way recited in claim 23 to prevent the removal of the adapter from the fuel cell is not disclosed or suggested by Phillips et al., and (2) the fuel cell being non-removably fixed to the adapter in the particular way recited in claim 23 does not “form an article into one piece which has formerly been formed in two pieces and put together” as stated by the Examiner.

Applicants submit that, in view of the above-identified amendments, new claim and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. In the alternative, the claims are submitted to be in better form for appeal. Should the Examiner discover there are remaining

issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below or Lisa Soltis, main attorney of record at (847)657-7980. Correspondence should be directed to Lisa Soltis.

Respectfully submitted,

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